

IMPORTANT NOTICE

THIS DOCUMENT IS FOR HISTORICAL REFERENCE ONLY

The 2005 edition of the *Louisiana Notary Public Examination Official Study Guide* and this 2007 supplement are outdated.

The current edition of the study guide is can be obtained from the secretary of state's office. An order form is available online, as is the most current information about the examination.

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Louisiana Notary Public Examination Official Study Guide
2007 Supplement

E R R A T A

Page 20: Under “Page 71” in the second sentence, which reads “After the quote from A.G. Opinion #77-1595 add,” change “1595” to “1585.”

Page 90: Sample Item 2. Correct answer is “E.”

Important Notice

If you are preparing for the Louisiana Notary Public Examination, you are especially directed to the text on page 88 of this supplement describing the books that you may use during the performance-based testing portions of the examination, and the rules relating to marking-up, highlighting, and making annotations in those books.

The rules contain an express prohibition against adding attachments to those books. This includes pages from this supplement. Under the examination rules, you may mark material designated in this supplement as being struck out, and you may annotate your study guide with references to this supplement to alert you about material that has been added or substituted.

Under no circumstances should you insert within, or attach to, your study guide any page or portion of a page from this supplement.

You will not be permitted to bring your copy of this supplement into the testing room, but you will be furnished with a copy of this supplement for your use during part III of the exam.

Louisiana Notary Public Examination Official Study Guide 2007 SUPPLEMENT

Supplementing the 2005 main volume

Information current through the 2006 Regular Session

Published pursuant to La. R.S.35:191.1(B)(4) by

JAY DARDENNE, SECRETARY OF STATE

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**LOUISIANA STATE UNIVERSITY
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**LOUISIANA NOTARY PUBLIC EXAMINATION
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Center for Assessment and Evaluation

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For general information on the office of notary public and the procedures for qualifying to be examined for a notary commission in the state of Louisiana, please contact the Notary Division of the Louisiana Secretary of State's Office at 225-922-0507.

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About This Supplement

This publication updates the *Louisiana Notary Public Examination Official Study Guide* 2005 edition (Study Guide) to conform to the Louisiana Revised Statutes as amended through the 2006 legislative sessions.

The major changes involve the revisions to the laws of registry adopted in 2005 and made effective in July 2006. Act 169 of 2005 repealed a plethora of statutes and code articles, and concisely restated our public records doctrine by making changes in La. R.S. Titles 9 (Civil code ancillaries), 13 (Courts and judicial procedure), and 44 (Public records and recorders). It also added a new Title XXII-A to the Civil Code's Book III (Of the Different Modes of Acquiring Ownership of Things). This new title is called Of Registry, and comprises articles 3338–3368.

The revisions to the laws of registry required amendments to laws on recordation throughout our codes and statutes. As pertains to the office, duties, and functions of notaries, the following Study Guide chapters were directly affected by these changes: Recordation and Registry, Office of Notary Public, Sale, Donation, Lease, Mortgage, Juridical Acts, Conveyance and Mortgage of Immovables, and Miscellaneous Acts.

Although the greater portion of this supplement deals with the revisions of the laws of registry, significant changes occurred in Title 35 – Louisiana Notary Public Law. These changes are reflected in the updates for Chapter 7 – The Office of Notary Public in Louisiana, and to some extent in the chapters on recordation and juridical acts.

The remaining changes in the Study Guide are occasioned by: (1) other Acts of the 2005 and 2006 legislative sessions, (2) supplemental information that pertains to the office, duties, and functions of notaries, (3) corrections, and (4) updated information concerning the Louisiana Notary Public Examination.

The authors, editors, and publishers of this supplement thank the instructors, students, examinees, and notaries and attorneys who purchased the Study Guide as a desk reference, for their feedback on the 2005 edition. We welcome your continued input.

C. Alan Jennings
January 2007

Chapter 1

The Notary at Civil Law

—No changes—

Chapter 2

The Civil Law in Louisiana

—No Changes—

Chapter 3

The Notary's Role in Louisiana

—No Changes—

Chapter 4

Louisiana's Court System

—No Changes—

Chapter 5

Sources of Law and Legal Authority

—No changes—

Chapter 6

Registry & Recordation

.....

Page 39:

Strike out text of La. R.S. 9:2721(A) and insert the following:

A. Repealed by Acts 2005, No. 169, §8, eff. July 1, 2006.

Page 40:

Strike out La. R.S. 9:2722 and 9:2756, and replace with:

La. C. C.:

**Art. 3338. Instruments creating real rights in immovables;
recordation required to affect third persons**

The rights and obligations established or created by the following written instruments are without effect as to a third person unless the instrument is registered by recording it in the appropriate mortgage or conveyance records pursuant to the provisions of this Title:

- (1) An instrument that transfers an immovable or establishes a real right in or over an immovable.
- (2) The lease of an immovable.
- (3) An option or right of first refusal, or a contract to buy, sell, or lease an immovable or to establish a real right in or over an immovable.
- (4) An instrument that modifies, terminates, or transfers the rights created or evidenced by the instruments described in Subparagraphs (1) through (3) of this Article.

Art. 3339. Matters not of record

A matter of capacity or authority, the occurrence of a suspensive or a resolutive condition, the exercise of an option or right of first refusal, a tacit acceptance, a termination of rights that depends upon the occurrence of a condition, and a similar matter pertaining to rights and obligations evidenced by a recorded instrument are effective as to a third person although not evidenced of record.

Art. 3340. Effect of recording other documents

If the law or a recorded instrument expressly makes the recordation of an act or instrument a condition to the creation, extinction, or modification of rights or obligations, such act or instrument is not effective as to a third person until it is recorded.

The recordation of a document, other than an instrument described in Article 3338, that is required by law to be registered, filed, or otherwise recorded with the clerk of court or recorder of conveyances or of mortgages or in the conveyance or mortgage records shall have only the effect provided for by such law.

Art. 3341. Limits on the effect of recordation

The recordation of an instrument:

- (1) Does not create a presumption that the instrument is valid or genuine.
- (2) Does not create a presumption as to the capacity or status of the parties.
- (3) Has no effect unless the law expressly provides for its recordation.
- (4) Is effective only with respect to immovables located in the parish where the instrument is recorded.

Art. 3343. Third person defined

A third person is a person who is not a party to or personally bound by an instrument.

A witness to an act is a third person with respect to it.

A person who by contract assumes an obligation or is bound by contract to recognize a right is not a third person with respect to the obligation or right or to the instrument creating or establishing it.

Art. 3351. Ancient documents; presumptions

An instrument that has been recorded for at least ten years is presumed to have been signed by all persons whose purported signatures are affixed thereto, and, if a judgment, that it was rendered by a court of competent jurisdiction.

Add (at the end): "Provisions of the laws of registry applicable specifically to mortgages are covered in Chapter 18."

Pages 41–42:

Strike out the text of La. R.S. 9:2742, 9:2744, 9:2754, and 9:2757 and insert the following [Note: La. R.S. 9:2758 remains]:

La. C.C.:***Art. 3346. Place of recordation; duty of the recorder***

A. An instrument creating, establishing, or relating to a mortgage or privilege over an immovable is recorded in the mortgage records of the parish in which the immovable is located. All other instruments are recorded in the conveyance records of that parish.

B. The recorder shall maintain in the manner prescribed by law all instruments that are recorded with him.

Art. 3347. Effect of recordation arises upon filing

The effect of recordation arises when an instrument is filed with the recorder and is unaffected by subsequent errors or omissions of the recorder. An instrument is filed with a recorder when he accepts it for recordation in his office.

Art. 3348. Time of filing; determination

Upon acceptance of an instrument the recorder shall immediately write upon or stamp it with the date and time it is filed and the registry number assigned to it.

La. R.S. 13:103. Certified copies and their effect

A. The recorder, upon proper request, shall issue to any person a copy of a recorded instrument and certify upon it, or in a separate certificate attached to it, that it is a true and correct copy of the instrument, the time and date the instrument was recorded, and its registration number or of the place in the records where it may be found.

B. A copy of a recorded instrument certified by the recorder is entitled to the same faith and credit as the recorded instrument. It may be recorded in the mortgage or conveyance records of other parishes with the same effect as if it were the recorded instrument.

C. Certification by a recorder of a copy of an instrument that is not in authentic form or duly authenticated does not dispense with the necessity of proving the signatures of the parties.

Chapter 7

The Office of Notary Public in Louisiana

Page 53:

At top of page, continuation of La. R.S. 35:71(E), strike out last sentence: "This penalty shall be in addition to the filing fee required for renewal of the bond."

Page 55:

At the fourth bullet, insert "Iberville, " between "East Feliciana, " and "Livingston".

Page 56:

Under **Parishes not grouped with other parishes**,

Paragraph 1, strike out "attorney-notaries" and insert "notaries with statewide jurisdiction" and

Paragraph 2, strike out "Iberville, ".

Under **Notaries with statewide jurisdiction**, substitute the following:

Under La. R.S. 35:191(P), the following notaries who are commissioned in and for any parish in the state have statewide jurisdiction:

- Attorneys who are licensed to practice law in Louisiana; and
- Notaries who have taken and passed the statewide examination on or after June 13, 2005.

Nevertheless, all such notaries public must be mindful that the office of notary public is an appointment in and for a particular parish, and the validity of the commission rests upon maintaining the qualifications for the office. There is no such thing as a statewide commission. See "Maintaining Qualifications for Office" starting on page 71.

Pages 57–61:

Substitute the following new section on recordation and registry:

Recordation and registry of acts affecting immovables

In addition to the other duties discussed herein, the notary is charged with specific duties relating to recording and registering certain acts. These duties are of the highest importance, and failure to discharge them can have grave consequences: The notary is not only subject to a fine of \$200 for each violation, he can be held personally liable for all losses suffered by any party injured by such failure.

Notary's duty to record acts affecting immovable property

All notaries have the duty to record all acts of conveyance and encumbrance of immovables in the office of the recorder for the parish where the property is located.

La. R.S. 35:199 Recordation of acts affecting immovable property

A. Notaries public shall record all acts of sale, exchange, donation, and mortgage of immovable property passed before them, together with all resolutions, powers of attorney, and other documents annexed to or made part of the acts, in their proper order, and after first making a careful record of the acts in record books to be kept for that purpose as follows:

(1) If the immovable is located in this state outside of the parish of Orleans, the notary shall record the instrument within fifteen days after they are passed, with the appropriate recorder of the parish or parishes in which the immovable property is situated.

(2)(a) If the immovable is situated within the parish of Orleans, the notary shall file the instrument in the office of the custodian of notarial records for the parish of Orleans and record the instrument with the register of conveyances or recorder of mortgages or both in accordance with the provisions of R.S. 35:323(B).

(b) If the instrument is an act of sale or any other act evidencing a transfer of real property situated in the parish of Orleans, it shall be the duty of the notary to file a copy of the instrument with the board of assessors for the parish of Orleans within fifteen days from the date of sale or transfer. Whenever there is annexed to such act any sketch, blueprint, or survey that forms part of the act, the copy filed with the board of assessors shall have attached a copy of the sketch, blueprint, or survey.

B. The provisions of Subsection A of this Section shall not be applicable to instruments affecting cemetery plots and shall not be so construed as embracing inventories or partitions or any other act required by law to be performed by notaries or parish recorders under any order of court, but the original of all such acts, without being recorded, shall be returned to the court from which the order is issued.

C. All notaries who contravene the provisions of this Section shall be subject to a fine of two hundred dollars for each infraction of the same, to be recovered before any court of competent jurisdiction, one-half for the benefit of the informer, as well as all such damages as the parties may suffer thereby.

D. A notary public shall be relieved of his obligations under Paragraph (A)(1) and Subparagraph (A)(2)(a) of this Section when he has been expressly directed in writing by all parties to the instrument to defer or refrain from such recordation or to deliver the instruments to one of the parties or to another person.

Note that under paragraph (D), the notary is *not* relieved of the duty under Paragraph (A)(2)(b), which requires him to file with the Orleans Parish board of assessors a copy of any act transferring real property situated in Orleans Parish.

Special Rules in Orleans Parish

Notaries in Orleans Parish are required to deposit the *original of every authentic act* (except chattel mortgages and acts relating to immovables located outside of Orleans Parish) passed before them with the custodian of notarial records for the parish of Orleans.

Further, no matter what the notary's location, every act, contract, or instrument (except money judgments and chattel mortgages) that must be filed with the recorder of mortgages or the register of conveyances for the parish of Orleans must first be filed in the office of the custodian. La. R.S. 35:323(B)(1)(a). La. R.S. 35:323(B)(1)(a).

The custodian will endorse all acts filed with his office with the date filed and a serial number and issue a receipt showing the date filed.

If the law requires any such act or instrument to be filed with the recorder of mortgages or the register of conveyances it is the *notary's duty* to see that the endorsed instrument is filed accordingly. La. R.S. 35:323(B)(1)(b). The recorder of mortgages or the register of conveyances will process the filing and

return the original instrument to the custodian for permanent archiving. La. R.S. 35:323(B)(1)(c).

Within 60 days of the recordation or registry of any such act, the notary must deposit all attachments such as certificates, tax researches, surveys, and other documents pertaining to any act passed before them with the custodian.

Notaries for the parish of Orleans are subject to commission revocation for failure to comply with La. R.S. 35:323.

Page 62:

Under **Other Directives**,

Strike out the first two bullet items and insert the following:

- Including, in all acts affecting real rights in immovable property required to be recorded to affect third persons, where appropriate, the following (La. C.C. Arts. 3338, 3352):
 - (1) The full name, domicile, and permanent mailing address of the parties.
 - (2) The marital status of all of the parties who are individuals, including the full name of the present spouse or a declaration that the party is unmarried.
 - (3) A declaration as to whether there has been a change in the marital status of any party who is a transferor of the immovable or interest or right since he acquired it, and if so, when and in what manner the change occurred.
 - (4) The municipal number or postal address of the property, if it has one.
 - (5) The last four digits of the social security number or the taxpayer identification number of the mortgagor, whichever is applicable.
 - (6) The notary's identification number or the attorney's bar roll number and the typed, printed, or stamped name of the notary and witnesses if the instrument is an authentic act of, or an authenticated act by, a notary.

Page 63:Under **Requirements for Appointment:**

Add the following sentence at the end of list item #1: “The court shall not charge any fee in excess of thirty-five dollars for filing and processing any application, or petition, or both, to be appointed a notary public. La. R.S. 35:191(C)(1)(c).”

Under list item #2, strike out “a parish examining committee” and insert “the secretary of state”.

Page 64:Under **Uniform Statewide Examination**, substitute:

The secretary of state administers a uniform statewide examination in regional testing centers twice a year, on the first Saturday in June and December.

The application to take the examination, which is distinct from the application to the court to qualify as a notary public, is on a form prepared by the secretary of state. This application must be submitted (with a check for \$75 payable to the secretary of state) and approved by the parish application committee in sufficient time to allow the committee to submit the registration form and fees to the secretary of state no later than 45 days before the date of the examination.

Page 65:

Substitute amended La. R.S. 35:191(E):

La. R.S. 35:191(E)

Notwithstanding any other provision of law to the contrary, any person who has been a validly appointed notary public in or for any parish either for a period of five years or after taking and passing the written examination, as provided in R.S. 35:191.1 on or after June 13, 2005, and who changes his residence to another parish, and in the parish of his new residence complies with the laws governing application and qualifying for appointment to the office of notary public in said parish, except taking and passing an examination, and who meets the prerequisites for commission issuance specified in R.S. 35:201, shall be issued a notarial commission for the parish of his new residence by the governor without advice and consent of the Senate and may exercise the functions of notary public in that parish.

Page 66:

Substitute amended La. R.S. 35:71(A)(1):

La. R.S. 35:71(A)(1)

Unless otherwise provided by law, the authority of a notary public to exercise any of the functions of a notary public within his jurisdictional limits shall remain in effect, provided that the notary posts and maintains bond, with good and solvent security, in the amount of ten thousand dollars conditioned on the faithful performance of all duties required by law toward all persons who may employ him in his official capacity as notary public, or that the notary maintains a minimum of ten thousand dollars in errors and omissions insurance coverage.

Page 70:Under **Maintaining Current Bond**, at the end of the first paragraph, add:

Commercial surety bonds for Louisiana notaries must be renewed every five years. Personal surety bonds remain in effect for the life of the surety. Errors and Omissions liability insurance policies are written for one-year and five-year terms depending upon the insurer and the coverage purchased.

Page 71:In the heading **Maintaining Other Qualifications of Office**, strike out “Other”.

After the quote from A.G. Opinion #77-1595, add:

Additionally, in Opinion #78-783, it states:

The requirement of ‘maintaining an office’ means maintaining an office open to and for the general public as a notary public

Acts 2006, No. 756 codified the point made by these opinions. Commission validity now stands defined at La. R.S. 35:191(A)(3), which requires that the notary maintain the qualifications for the office of notary in and for the parish of the commission in order to be considered validly commissioned. The qualifications on which commission validity rests are express in the law: notaries must be commissioned in and for the parish in which they *reside and are registered to vote*. If the notary holds a dual commission, he must maintain an office “open to and for the service of the general public as a notary public” in the parish of the second (i.e., dual) commission.

All commissioned notaries who relocate their residence must re-commission in the new parish to remain validly commissioned. Further, if any notary public who is a citizen is purged from the rolls of registered voters, his commission becomes invalid.

La. R.S. 35:191(A)(3)(a) and (b)

(a) A valid notarial commission shall be one that has not been revoked or resigned, and that was issued to a person who, at the time of issuance in accordance with the provisions of this Section, possessed the qualifications for office set forth in Paragraph (A)(1) and Subsection B of this Section, and who is currently possessed of those qualifications.

(b) A validly appointed notary public is a person who currently holds a valid notarial commission.

The law specifically excepts the failure-to-maintain-bond as a sole cause for commission forfeiture (as opined in Op.Atty.Gen. 77-1595). It clarifies that the penalty for failure to maintain bond is statutory suspension of the commission and suspension of the authority to exercise official functions.

La R.S. 35:191(A)(3)(c)

(c) A notarial commission that has been or is currently suspended by a court of competent jurisdiction as provided by R.S. 35:71(C), or otherwise by operation of law pursuant to R.S. 35:14 or for the failure of the notary to maintain the required bond or insurance, or for failure to timely file the annual report as provided by law, shall not, solely for the reason that it is a suspended commission, be deemed an invalid notarial commission.

In summary, to be validly commissioned, a notary must:

- (1) Have residence in, and (unless a resident alien) be a registered voter in, the parish of his commission.
- (2) If holding a dual commission, not only maintain the commission in the parish of residence, but also maintain an office open to and for providing notarial services to the general public in the parish of the second (i.e., dual) commission.

At any time any these qualifications are absent (with the exception of a commissioned notary on official leave of absence), the commission is invalid.

Under **The de facto doctrine:**

Insert the following after the first paragraph:

But “routinely” is not the same as “always.”

The de facto doctrine is far from an automatic validation of the notarial acts of a person who is not a notary de jure. It rests with a court to determine whether a particular act is valid under the de facto doctrine. That determination requires the existence of good faith on the part of the person exercising the notarial power. The notary is not automatically a notary de facto when he loses de jure status.

Page 75:

Substitute amended La. R.S. 35:131–132:

La. R.S. 35:131. Grant of leave of absence; suspension of prescription

A. The secretary of state on behalf of the governor may grant leave of absence to notaries public for a period not exceeding thirty-six months, to date from the day the leave is granted.

B. Absence from the state suspends the running of prescription against the notary.

La. R. S. 35:132. Notaries in military service, leave of absence

A leave of absence may be granted by the secretary of state on behalf of the governor to any notary public upon his application to the secretary of state in writing certifying that he is a member of the Army, Navy, Marine Corps, or any other branch of the military service of the United States, or of the state of Louisiana, and stating the expiration date of his bond.

Add new La. R.S.35:133:

La. R.S.35:133. Notaries in military service, period of leave

The period of the leaves of absence granted in accordance with R.S. 35:132 shall date from the day the leave is granted and shall terminate sixty days after the date of discharge of the notary from the military service of the United States or the state of Louisiana.

Chapter 8

Things and Ownership

Page 86:

Substitute amended La. C.C. Art. 466 :

Art. 466. Component parts of a building or other construction

Things permanently attached to a building or other construction are its component parts.

Things such as plumbing, heating, cooling, electrical, or other installations are component parts of a building or other construction as a matter of law.

Other things are considered to be permanently attached to a building or other construction if they cannot be removed without substantial damage to themselves or to the building or other construction or if, according to prevailing notions in society, they are considered to be its component parts.

Chapter 9

Servitudes

—No Changes—

Chapter 10

Donation

.....

Page 135:

Under **Explicit Written Acceptance**, strike out “In the case of immovable property, . . . La. R.S. 9:2371.”

Page 140:

At the end of the first paragraph, strike out “; La. R.S. 9:2371” and add “See R.S. 35:199 (Appendix A) and C.C. Art. 3338.”

Substitute for La. C.C. Art. 1554 the following:

Art. 1554. Recordation of donation and acceptance of immovable property

When the donation affects an immovable or rights thereto, the act of donation, as well as the act of acceptance, whether the acceptance be made by the same or a separate act, must be filed for registry in the conveyance records of the parish in which the immovable is located.

Strike out the entirety of La. R.S. 9:2371.

Chapter 11

Contracts

.....

Page 154:

Substitute the following C.C. Art. 2035:

Art. 2035. Rights of third party in good faith

Nullity of a contract does not impair the rights acquired through an onerous contract by a third party in good faith.

If the contract involves immovable property, the principles of recordation apply to a third person acquiring an interest in the property whether by onerous or gratuitous title.

Page 156:

After C.C. Art 2018, insert the following C.C. Art. 2021:

Art. 2021. Rights of third party in good faith

Dissolution of a contract does not impair the rights acquired through an onerous contract by a third party in good faith.

If the contract involves immovable property, the principles of recordation apply to a third person acquiring an interest in the property whether by onerous or gratuitous title.

Chapter 12

Matrimonial Regimes

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Page 169:

Strike out the entirety of Art. 2755

Page 171:

Insert after the text of La. R.S. 9:272 (B) the following

C. A covenant marriage terminates only for one of the causes enumerated in Civil Code Article 101. A covenant marriage may be terminated by divorce only upon one of the exclusive grounds enumerated in R.S. 9:307. A covenant marriage agreement may not be dissolved, rescinded, or otherwise terminated by the mutual consent of the spouses.

Paragraph (C), added in 2006, establishes causes for termination of a covenant marriage and prohibits the spouses from ending a covenant marriage by consent, as it specifically prescribes against the possibility of *any act in writing between spouses having any legal effect to dissolve, rescind, or terminate a covenant marriage agreement.*

Page 174:

Under **Other Applicable Rules**, first paragraph, strike out “201-198” and insert “272-298”

Chapter 13

Sale

.....

Page 177:

Under **Conflicts with ancillaries and commercial laws**, in the statute heading, strike out “**9:2192**” and insert “**9:3192**”.

Page 178:

Substitute for C.C. Art. 2442 the following:

Art. 2442. Recordation of sale of immovable to affect third parties

The parties to an act of sale or promise of sale of immovable property are bound from the time the act is made, but such an act is not effective against third parties until it is filed for registry according to the laws of registry.

Page 180:

Substitute for C.C. Art. 517 the following:

Art. 517. Voluntary transfer of ownership of an immovable

The ownership of an immovable is voluntarily transferred by a contract between the owner and the transferee that purports to transfer the ownership of the immovable. The transfer of ownership takes place between the parties by the effect of the agreement and is not effective against third persons until the contract is filed for registry in the conveyance records of the parish in which the immovable is located.

Chapter 14

Lease

Page 191:

Substitute, for the first paragraph under **Recordation of lease affecting immovables** the following:

Under La. R.S. 44:104, a notice of lease furnishing key information may be recorded in lieu of the entire lease. Paragraph (A) below establishes the minimum requirements. Paragraph (B) provides for the designation of representatives of the parties who have authority to certify certain facts in connection with the lease. Paragraph (C) provides for amendments to the notice in the event of a transfer of the lease or other change in the information required in a notice of lease. Paragraph (D) provides for the termination of the effect of recordation and (E) establishes that this section is not applicable to certain mineral leases.

Page 191–192:

Strike out the entirety of La. R.S. 9:2721.1 and insert:

La. R.S. 44:104 Notice of lease; requirements and effect

A.(1) In lieu of recording a written lease or sublease or any amendment or modification thereof, as provided by Civil Code Article 3338, a party may record a notice of lease or sublease, signed by the lessor and lessee of the lease or sublease.

(2) Recordation of a notice makes the lease or sublease and any subsequent amendment or modification thereof effective as to third persons to the same extent as would recordation of the instrument evidencing it.

(3) The notice of lease must contain the following:

(a) A declaration that the property is leased, and the names and addresses of the lessor and lessee.

(b) A description of the leased property.

(c) The date of the lease, its term, and the provisions of any extensions and renewals of the term provided for in the lease.

(d) A reference to the existence of an option, right of first refusal, or other agreement of the lessor to transfer all or any part of the leased premises.

(e) If of a sublease, the notice shall also contain reference to the recordation information of the primary lease or notice of lease that is subleased; however, the omission of this information does not affect the efficacy of the notice.

B. A notice of lease may also designate a person authorized to certify in writing on behalf of a party the terms of the lease, whether it is in full force and effect, and the extent to which the obligations of the lease have been performed. The certification shall have the same effect that it would have if it were signed by the person on whose behalf it is made.

C.(1) A change in a lease with respect to any matter that is required to be included in a notice of lease is not effective as to a third person unless the parties record a signed amendment to the notice that describes the change.

(2) If the amendment is of a transfer of a party's rights, the notice shall be signed by the transferor and transferee.

(3) If the amendment only designates a different person to certify the matters described in Subsection B of this Section, the amendment need only be signed by the person on behalf of whom the certification is to be made.

D. The effect of recordation of a notice of lease ceases:

(1) Upon recordation of an instrument signed by the parties to the lease or their successors declaring that the lease has terminated; or

(2) On the date that the lease may finally terminate as set forth in the notice of lease.

E. This Section does not apply to mineral leases that are subject to the provisions of the Louisiana Mineral Code.

Page 192:

In the paragraph beginning “If the lease or proper extract is recorded . . .”, strike out “extract” and insert “notice”.

Page 210:

Substitute for R.S. 9:3306 (26) the following:

(26)(a) "True lease" means a lease entered into before January 1, 1990, under which:

(i) The lessee has no obligation to pay total compensation over the base lease term which is substantially equivalent to or in excess of the initial value of the leased property; or

(ii) The lessee does not have the option or obligation to become the owner of the leased property upon termination of the lease for no or nominal consideration.

(b) A true lease also means a lease entered into after January 1, 1990, that is not classified as a security interest as provided under R.S. 10:1-201(35).

(c) Consistent with R.S. 10:9-505, the filing of a financing statement by a lessor under a true lease shall not of itself result in such a lease being classified as a financed lease for purposes of this Chapter or otherwise.

Chapter 15

Mandate and Representation

.....

Page 218:

Under **Special Situations**, first line, strike out “Civil2” and insert “Civil”.

Chapter 16

Suretyship

—No Changes—

Chapter 17

Pledge

—No Changes—

Chapter 18

Mortgage

Page 252:

Strike out the entirety of C.C. Arts. 3308 and 3309.

Page 254–256:

Substitute the following new **Recordation** section:

Recordation

A mortgage has no effect against third persons unless it is recorded in the parish where the property is located. When the mortgage is filed with the recorder of mortgages, it is given the effect of recordation. La. C.C. Arts. 3338, 3347.*

Limits on the effect of recordation

The effect of recordation is limited to property located in the parish in which the recording occurs. La. C.C. Art. 3341, 3346.*

Recordation of a mortgage is not evidence of the validity of the obligation the mortgage secures, and gives the creditor no greater rights against third persons than he has against the owner of the property secured by the mortgage La. C.C. Art. 3320.

Art. 3320. Recordation; limits of effectiveness

A. Repealed by Acts 2005, No. 169, §8 eff. July 1, 2006.

B. Repealed by Acts 2005, No. 169, §8 eff. July 1, 2006.

C. Recordation has only the effect given it by legislation. It is not evidence of the validity of the obligation that the encumbrance secures. It does not give the creditor greater rights against third persons than he has against the person whose property is encumbered.

Recordation does not create a presumption that a mortgage is valid or genuine, nor does it create a presumption of the capacity or status of the parties. La. C.C. Art. 3348.*

Mortgages affecting property in more than one parish

Mortgage instruments may be executed in multiple originals for filing in each parish where an encumbered immovable is located. A certified copy of an original filed in the records of a parish may also be recorded in another parish with the same effect as recordation of the original. La. C.C. Art. 3355; La. R.S. 13:103.*

Refer to Chapter 6 for a discussion of the public records doctrine and the laws on registry, and Chapter 7's section on "DUTIES OF OFFICE" for details on the notary's duty to record acts affecting immovables.

*See the supplement pages covering changes to Chapter 6 for the text of these statutes.

Mortgage certificates

The Clerk of Court (Recorder of Mortgages) is required to furnish a mortgage certificate upon request.

La. R.S. 44:105. Certificate of encumbrances, procedure, content, liability

A. The recorder shall deliver a certificate of encumbrances to any person who requests it in writing.

B. The certificate shall list all the uncanceled mortgages and instruments evidencing privileges, in the order of their recordation, that appear in the mortgage records and that identify the persons designated in the request as the mortgagor or obligor of the debt secured by the privilege, unless the recorder is supplied with evidence satisfactory to him that such instruments are in fact not those of the person in whose name the certificate is sought.

C.(1) If no uncanceled mortgage or instrument evidencing a privilege exists, the certificate shall declare that fact.

(2) The certificate shall not list mortgages or privileges arising from the recordation of the ad valorem tax rolls nor shall it list the notices of tax sales filed pursuant to R.S. 47:2180.

D.(1) The recorder is not liable personally or in his official capacity for listing in his certificate an encumbrance in the name of a person who reasonably may be construed to be the person in whose name the certificate is sought.

(2) The recorder is liable in his official capacity for any loss caused by the failure to list a mortgage or privilege in the certificate or by listing a mortgage or privilege that has been cancelled from his records unless

the error proceeds from a want of exactness in the description of the property or the name of the mortgagor or obligor of the debt secured by the privilege specifically given to the recorder in the request.

Notaries must remember to include the printed names of the witnesses and the notary under their signature as provided in La. R.S. 35:12(D). The clerks of court are authorized in that section to refuse to accept for filing any act by a notary that fails to include these components. That authority is recognized in La. R.S. 9:5212 below:

La. R.S. 9:5212 Prompt recordation and certificate of encumbrances

Except as provided in R.S. 35:12(D), in no case can the recorder of mortgages and the parish recorders fulfilling the same duties, refuse or delay the recording of the acts which are presented to them for that purpose, or the delivery of the certificates which are required of them, as hereafter stated.

Page 258:

Insert the following new section above the section entitled OBLIGATIONS THAT CAN BE SECURED BY MORTGAGE:

MORTGAGE CANCELLATION*

Procedures for mortgage cancellation require submission of a formal “request for cancellation” with appropriate attachments depending upon the circumstances. All requests to cancel mortgages and privileges must 1) be made in a writing that identifies the mortgage or privilege by reference to the place in the records where it is recorded, and 2) be signed by the person requesting the cancellation. La.C.C. art. 3366.

Methods of mortgage cancellation

A request for cancellation must be accompanied by supporting documents. Which documents must accompany it will depend on the situation. Below are listed the requirements for the most common situations that might be encountered in a general practice. Cancellations involving debts discharged in bankruptcy (R.S. 44:111) are omitted here.

Non-paraphed obligation (R.S. 44:106)

Request for cancellation accompanied by declaration of the obligee of record (in authentic form or duly acknowledged private act) that the obligation is satisfied, releases or acknowledges the extinction of the mortgage or privilege, or directs the recorder to cancel its recordation. A request for cancellation by an assignee must also provide the name of the mortgagor or obligor of the privilege as it appears in the recorded instrument and registry number or other appropriate recordation information of the instrument.

Paraphed obligation (R.S. 44:107)

Request for cancellation accompanied by

- The original obligation marked paid or canceled, OR
- An authentic act describing the obligation and containing

(1) A declaration by appearer that he owns and holds the obligation and that he releases or acknowledges extinction of the mortgage or privilege or directs the recorder to cancel its recordation; AND

(2) A declaration by the notary that the appearer presented him with the paraphed obligation and that he paraphed it for identification with his act.

Certificate of public officer (R.S. 44:108)

If a cancellation is to be effected pursuant to a certificate by a sheriff, marshal, or other officer as a consequence of a judicial sale, or other decree or action, the request for cancellation shall have attached to it a certified copy of the order, decree, or other instrument evidencing the extinction or directing the cancellation.

Licensed financial institution (R.S. 44:109)

A licensed financial institution, defined in this section as “any person licensed or regulated by the Louisiana Office of Financial Institutions, or any bank, credit union, lending agency, or other person conducting such a business that is licensed or regulated by another state or the United States,” may effect a cancellation by submitting a request for cancellation accompanied by its declaration, in authentic form or duly acknowledged private act, that contains:

(1) A declaration that it was the obligee, or the authorized agent of the obligee, of the obligation secured by the mortgage or privilege when the obligation was extinguished and that the secured obligation has been paid or otherwise satisfied or extinguished; or

(2) A declaration that it is the obligee or authorized agent of the obligee of the secured obligation and that it releases the mortgage or privilege or directs the recorder to cancel its recordation; and

(3) A statement identifying (a) the type of institution and (b) its licensing or regulatory authority.

If the financial institution is requesting cancellation under R.S. 44:106–108, it may include the information required by those sections in its request for cancellation if the request is an authentic act or private act duly acknowledged.

Prescribed mortgage not reinscribed (C.C. Art. 3367)

Written application to cancel signed by the person requesting the cancellation.

Prescribed judicial mortgage not revived, or revival demand rejected (C.C. Art. 3368)

Request for cancellation accompanied by certificate of clerk that no revival suit has been filed, or a final judgment of the court rejecting the demand for revival.

Methods remaining unchanged by revision

The revision did not change the following methods of mortgage cancellation.

Cancellation on affidavit of lost note by notary who satisfied obligation out of proceeds (R.S. 9:5167)

Current provisions remain for a mortgage to be cancelled on the affidavit of a notary who satisfied a promissory note out of the proceeds of an act of sale or mortgage passed before him when the note has subsequently been lost or destroyed.

The affidavit must contain a description of the promissory note and the property, and recitations

- (1) That the affiant did satisfy the promissory note,
- (2) That the affiant did receive the note marked “Paid in Full” from the last holder of the note,
- (3) That the note was lost or destroyed while in the affiant’s custody,
- (4) That the affiant agrees to hold harmless the clerk of court or recorder of mortgages for any loss or damage occasioned by his failure to produce the note, and

(5) The affiant has made a due and diligent search for the last holder, the last holder cannot be located, and one year has elapsed since the act of sale or mortgage giving rise to the affidavit of cancellation was recorded.

Alternatively, the notary’s affidavit may be accompanied by an affidavit from the last holder stating that the promissory note marked “Paid in Full” was delivered to the notary public.

Cancellation on affidavit of title-insurance-company officer, closing notary, or attorney for mortgagor that obligation was satisfied (R.S. 9:5167.1)

When a mortgagee receives full payment based on a payoff statement but fails to deliver acceptable documentation that a mortgage has been satisfied, an officer of a title insurance company, the closing notary, or the attorney for the mortgagor may request that the mortgage be canceled by submitting the request for cancellation with an affidavit that includes the names of the mortgagor and the mortgagee, the date of the mortgage, and the book and page, or folio, or clerk’s file number of the immovable property records where the mortgage is recorded, together with similar information for a recorded assignment of the mortgage, along with recitations that

- (1) The affiant is an authorized officer of a title insurance business, the closing notary public, or the attorney for the person or entity that made the payment.
- (2) The affidavit is made on behalf of the mortgagor or an owner of the property encumbered by the mortgage.
- (3) The mortgagee provided a payoff statement with respect to the loan secured by the mortgage.
- (4) The affiant has ascertained that the mortgagee has received payment of the loan secured by the mortgage in accordance with the payoff statement, as evidenced by (a) A bank check, certified check, or escrow account check which has been negotiated by or on behalf of the mortgagee; or (b) Other documentary evidence of the receipt of payment by the mortgagee, including but not limited to verification that the funds were wired to the mortgagee.

(5) More than sixty days have elapsed since the date the mortgagee received the payment, and the mortgagee has not returned documentary authorization for cancellation of the mortgage.

(6) The mortgagee has been given at least fifteen days notice in writing of the intention to execute and record an affidavit in accordance with the provisions of R.S. 9:5167.1, with a copy of the proposed affidavit attached to the written notice.

A copy of the payoff statement and evidence that the mortgagee has received the payment must be attached to the affidavit. Evidence of payment may be a copy of the canceled check indicating endorsement by the mortgagee or other documentary evidence described in (4) above.

Elimination of “lost note affidavits” by maker

A long-standing method of mortgage cancellation has been eliminated. Act 169 of 2006 repealed R.S. 9:5168. This section authorized the maker of a promissory note to unilaterally cause the cancellation of mortgage by making an affidavit that the note was satisfied, that he was the last holder, and that the note had been lost or destroyed.

Mandamus proceeding

Where an obligation secured by a mortgage or privilege is lost or destroyed, and the mortgagor is unable to have the mortgage canceled through other established methods, a mandamus proceeding is required. When the court orders the mortgage cancelled, the request should be made as described in R.S. 44:108.

* Jennings, C. Alan, *Louisiana Notary* (Baton Rouge: Golden Bough LLC, Spring 2006). Used with permission.

Chapter 19

Juridical Acts

Page 271:

Under **Appearance Clause**, replace the second paragraph with:

The recitation of the full name, marital status, marital history (if changed since acquisition of an immovable being transferred) permanent mailing address, and the last four digits of the parties' social security numbers (or taxpayer identification numbers if the party is not an individual) of each party appearing in the act. La. R.S. 35:11, 12; La. C.C. Art. 3352.

Page 272:

Add, after the text of La. R.S. 35:11(A) the following:

La. C.C. Art. 3352. Recorded acts; required information

A. An instrument shall contain the following information when appropriate for its type and nature:

* * *

(2) The marital status of all of the parties who are individuals, including the full name of the present spouse or a declaration that the party is unmarried.

Under **Marital History**, replace the first paragraph with

La. C.C. Art. 3352 requires that any act transferring an immovable or an interest or right in one contain a declaration as to whether there has been a change in the marital status of any party who is a transferor of the immovable or interest or right since he acquired it, and if so, when and in what manner the change occurred. Although there are no other statutory requirements mandating the inclusion of marital history, it is customary in acts affecting immovables to include marital history in addition to marital status as a means of facilitating curative work.

Page 272–273

Strike out the paragraphs **Consequences of failure to include marital status, R.S. 44:135**, and **Form of Affidavit of Marital Status** in their entirety.

Page 273:

Strike out **La. R.S. 35:17.B** and **La. R.S. 9:5141.C** in their entirety, and insert:

La. C.C. Art. 3352. Recorded acts; required information

A. An instrument shall contain the following information when appropriate for its type and nature:

* * *

(5) The last four digits of the social security number or the taxpayer identification number of the mortgagor, whichever is applicable.

Page 275:

Strike out the text of La. R.S. 35:12 and insert “See Appendix A.” [Note updated Appendix A in this supplement]

Page 285:

Second line, strike out “\$” and insert “**La. R.S. 13:**”

Strike out the entirety of La. R.S. 9:2743.

Page 288:

Under **Statutory Duty to Record**:

In the first paragraph, strike out “There is no provision for the waiver of this statutory duty.”

Insert a new paragraph after the first paragraph as follows:

In 2006, the legislature amended La. R.S. 35:199 to consolidate the various statutory provisions for the notary's duty to record his acts affecting immovables. As part of the consolidation, it added specific conditions by which a notary could be relieved of a portion of those duties if the parties direct the notary *in writing* to deliver the instrument to one of the parties or another person. Some notarial duties prescribed in that section are not, however, subject to waiver, and the notary therefore remains obligated to perform some statutory functions.

Page 289:

Strike out the entirety of La. R.S. 9:2722.

Page 290:

Add:

Information required in all acts recorded under the laws of registry

Additional to the information required under La. R.S. 35:11 and 12, the laws of registry provide as follows:

La. C.C. Art. 3352. Recorded acts; required information

A. An instrument shall contain the following information when appropriate for its type and nature:

- (1) The full name, domicile, and permanent mailing address of the parties.
- (2) The marital status of all of the parties who are individuals, including the full name of the present spouse or a declaration that the party is unmarried.
- (3) A declaration as to whether there has been a change in the marital status of any party who is a transferor of the immovable or interest or right since he acquired it, and if so, when and in what manner the change occurred.
- (4) The municipal number or postal address of the property, if it has one.
- (5) The last four digits of the social security number or the taxpayer identification number of the mortgagor, whichever is applicable.
- (6) The notary's identification number or the attorney's bar roll number and the typed, printed, or stamped name of the notary and witnesses if the instrument is an authentic act of, or an authenticated act by, a notary.

B. The recorder shall not refuse to record an instrument because it does not contain the information required by this Article. The omission of that information does not impair the validity of an instrument or the effect given to its recordation.

C. The recorder shall only display the last four digits of the social security numbers listed on instruments that his office makes available for viewing on the Internet.

Chapter 20

Oaths and Affidavits

Page 295:

Add, after the form affidavit, the following:

Caveat Notarius: It is implicit in the making of an affidavit that *the affiant* swears or affirms his statement *under oath in the presence of the notary*. Accordingly, an affidavit may not be made valid by witness acknowledgment.

Chapter 21

Conveyance and Mortgage of Immovables

Page 300:

Under **Registry and recordation**:

Add, at the end of the first paragraph: “La. C.C. Art. 3274.”

At the end of the third paragraph, strike out “Duties.” and insert “DUTIES OF OFFICE”.

Page 302:

Under **Requirements when property mortgaged**, the second and third paragraphs as printed should appear as two bullet items under the first paragraph.

Page 312:

Second list (near end of page):

List item #2, strike out “9:2761” and insert “9:2361”.

List item #5, strike out “; La. R.S. 9:2751;”.

Page 322:

Strike out the entirety of La. R.S. 9:2721(A).

Chapter 22

Property Descriptions

—No Changes—

Chapter 23

Titled Movable Transactions

—No Changes—

Chapter 24

Succession and Testaments

.....

Page 401

Add:

Videotape of Execution of Testament

If a testator is sworn by a person authorized to take oaths, and the oath is recorded on the videotape, the videotape of the execution and reading of the testament may be admissible as evidence of :

- The proper execution of the testament.
- The intentions of the testator.
- The mental state or capacity of the testator.
- The authenticity of the testament.
- Matters that are determined by a court to be relevant to the probate of the testament.

For purposes above, “videotape” means the visual recording on a magnetic tape, film, videotape, compact disc, digital versatile disc, digital video disc, or by other electronic means together with the associated oral record. La. C.C.P. Art. 2904.

Pages 402–403:

Add signature line for testator at end of text of testament on each page of testament.

Chapter 25

Trusts

—No Changes—

Chapter 26

Public Inventory

—No Changes—

Chapter 27

Succession by Affidavit

Page 435:

Under Art. 3431, after “immovable property, ” insert “excluding an ownership interest in any cemetery space intended for the interment of the person who died intestate,”

Chapter 28

Business Organizations

.....

Page 447:

Under **Ownership of Immovable Property**, at the end, strike out “art. 2806” and insert “arts. 2806–2807”.

Page 463:

Under **Company’s separate existence**, insert “ 1310.5” after “La. R.S. 12:1304(C)”.

Chapter 29

Miscellaneous Acts

.....

Page 465:

First paragraph, strike out “184” and insert “185”.

Page 474:

Strike out the entirety of La. R. S. 9:5502.

Page 474–476:

Under **AFFIDAVIT OF LAST HOLDER OF LOST NOTE**, strike out the section in its entirety.

Page 486:

Insert after the text of La. C.C. Art. 258, the following:

Art. 262. Appointment of several tutors; order of priority.

If the parent who died last has appointed several tutors to the children, the person first mentioned shall be alone charged with the tutorship, and the second shall not be called to it, except in case of the death, absence, refusal, incapacity or displacing of the first, and in like manner as to the others in succession.

Chapter 30

Caveat Notarius

—No Changes—

Appendix A

Louisiana Notary Public Law; R.S. 35—Notaries Public and Commissioners

Pages 537–571:

Substitute the following amended Sections and Paragraphs:

§17. Repealed by Acts 2005, No. 169, §8, eff. July 1, 2006.

§71. Requirement of bond or insurance; suspension of notarial commissions; renewal of bonds or insurance; penalty

A.(1) Unless otherwise provided by law, the authority of a notary public to exercise any of the functions of a notary public within his jurisdictional limits shall remain in effect, provided that the notary posts and maintains bond, with good and solvent security, in the amount of ten thousand dollars conditioned on the faithful performance of all duties required by law toward all persons who may employ him in his official capacity as notary public, or that the notary maintains a minimum of ten thousand dollars in errors and omissions insurance coverage.

E. The commission of any qualified notary, other than a licensed attorney at law, who fails to renew his notarial bond timely or who fails to timely file his new or renewed bond or evidence of insurance coverage, as provided in Paragraph (D)(2) of this Section, shall be automatically suspended, and the notary shall have no authority to exercise any of the functions of a notary public until the required bond or insurance is in force and effect, and the bond or evidence of insurance has been filed with the secretary of state.

Acts 1989, No. 769, §1, eff. Jan. 1, 1990; Acts 2004, No. 562, §1; Acts 2006, No. 796, §1.

§131. Grant of leave of absence; suspension of prescription

A. The secretary of state on behalf of the governor may grant leave of absence to notaries public for a period not exceeding thirty-six months, to date from the day the leave is granted.

B. Absence from the state suspends the running of prescription against the notary.

Acts 1989, No. 497, §1; Acts 2006, No. 423, §1, eff. June 15, 2006.

§132. Notaries in military service, leave of absence

A leave of absence may be granted by the secretary of state on behalf of the governor to any notary public upon his application to the secretary of state in writing certifying that he is a member of the Army, Navy, Marine Corps, or any other branch of the military service of the United States, or of the state of Louisiana, and stating the expiration date of his bond.

Acts 2006, No. 423, §1, eff. June 15, 2006.

§133. Notaries in military service, period of leave

The period of the leaves of absence granted in accordance with R.S. 35:132 shall date from the day the leave is granted and shall terminate sixty days after the date of discharge of the notary from the military service of the United States or the state of Louisiana.

Acts 2006, No. 423, §1, eff. June 15, 2006.

§191. Appointment; qualifications examination

A.

(3)(a) A valid notarial commission shall be one that has not been revoked or resigned, and that was issued to a person who, at the time of issuance in accordance with the provisions of this Section, possessed the qualifications for office set forth in Paragraph (A)(1) and Subsection B of this Section, and who is currently possessed of those qualifications.

(b) A validly appointed notary public is a person who currently holds a valid notarial commission.

(c) A notarial commission that has been or is currently suspended by a court of competent jurisdiction as provided by R.S. 35:71(C), or otherwise by operation of law pursuant to R.S. 35:14 or for the failure of the notary to maintain the required bond or insurance, or for failure to timely file the annual report as provided by law, shall not, solely for the reason that it is a suspended commission, be deemed an invalid notarial commission.

C.

(1)(a)[Previous 191(C)(1) renumbered as (1)(a)]

(b) The application and qualifying process shall be administered by the court for each parish through a parish application committee composed of two members appointed by the court. Each member of the committee shall be appointed to serve a term of two years beginning September 1, 2006, and every two years thereafter.

(c) The court shall not charge any fee in excess of thirty-five dollars for filing and processing any application, or petition, or both, to be appointed a notary public provided for in Subparagraph (C)(1)(a) of this Section.

(2)(a) Taking and passing a written examination, as provided in R.S. 35:191.1, administered by the secretary of state.

(b)(i) The notary examination shall be given twice per year on the first Saturday of June and December. Should the scheduled Saturday be a state holiday, then the next non-holiday Saturday shall be the test date.

(ii) To qualify to be examined, the candidate shall have satisfied all requirements to be commissioned as a notary public in the parish, except for passing the examination, and register with the parish application committee on a form provided by the secretary of state and have attached thereto the required examination fee.

(iii) The qualified candidate shall be permitted to register for any notary public examinations administered by the secretary of state within one year after the date the parish application committee notifies the candidate of his approval to take the examination. No further parish application fee shall be required during this period. The required examination fee, however, must be paid for each examination.

(iv) The parish application committee shall notify the secretary of state of the number of applicants who have qualified and registered to be examined and forward the registration form and check for each candidate attached thereto not later than forty-five days prior to the date of the examination.

(c) The secretary of state shall furnish to each parish application committee the results of the examinations for the examinees from the parish and shall notify each examinee of the results of his examination.

* * *

E. Notwithstanding any other provision of law to the contrary, any person who has been a validly appointed notary public in or for any parish either for a period of five years or after taking and passing the written examination, as provided in R.S. 35:191.1 on or after June 13, 2005, and who changes his residence to another parish, and in the parish of his new residence complies with the laws governing application and qualifying for appointment to the office of notary public in said parish, except taking and passing an examination, and who meets the prerequisites for commission issuance specified in R.S. 35:201, shall be issued a notarial commission for the parish of his new residence by the governor without advice and consent of the Senate and may exercise the functions of notary public in that parish.

* * *

N. Any notary public appointed in and for the parish of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, West Baton Rouge, or West Feliciana is hereby authorized and qualified to exercise all of the functions of a notary public in and for any of said parishes. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.

* * *

P.(1) Notwithstanding any other provision of law to the contrary, each person who is licensed to practice law in this state who is a notary public in and for any parish in this state or who is a validly appointed notary public in and for any parish in this state and who has taken and passed the written examination, as provided in R.S. 35:191.1 on or after June 13, 2005, may exercise the functions of a notary public in every parish in this state. The expanded jurisdictional limits authorized by this Subsection are additional to other

provisions of law. No additional bonding or further application or examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.

(2) In order to qualify for the expanded jurisdictional limits authorized by this Subsection, any regularly commissioned notary public in and for any parish in this state who is not licensed to practice law in this state and who has not taken and passed the written examination as provided in R.S. 35:191.1 on or after June 13, 2005, may take the examination provided that he register directly with the secretary of state on a form provided for that purpose and pay the examination fee authorized by law no later than forty-five days before the date of a scheduled examination. Failure of such notary to pass the examination shall have no effect on the status of the commission of the notary.

* * *

Amended by Acts 1992, No. 396, §1; Acts 1992, No. 996, §1; Acts 1995, No. 333, §1; Acts 1995, No. 439, §1; Acts 1995, No. 1028, §§1, 2; Acts 1997, No. 1320, §1; Acts 2003, No. 926, §1; Acts 2003, No. 1142, §1, eff. Jan. 1, 2004; Acts 2004, No. 562, §1; Acts 2004, No. 754, §1, eff. Jan. 1, 2005; Acts 2005, No. 84, §1; Acts 2006, No. 423, §1, eff. June 15, 2006; Acts 2006, No. 793, §1; Acts 2006, No. 796, §1.

§191.1. Secretary of state; uniform statewide standards, rules, and procedures for notarial examinations

A. The secretary of state shall, with the advice and assistance of the courts and such subject matter experts as the secretary of state may request, develop uniform statewide standards for notarial examinations required by R.S. 35:191(C), which shall be administered at regional testing centers by the secretary of state. The standards developed shall include all of the following:

- (1) The procedures and rules for administering and grading the examination for applicants required to take an examination.
- (2) The format and content of the examination.
- (3) The procedures for review by the secretary of state of any examination which was taken pursuant to R.S. 35:191(C) and which was failed by the examinee.

B. The secretary of state shall also:

- (1) Charge a fee not to exceed seventy-five dollars for each examinee taking an examination.
- (2) Publish and make available to the public a document containing the material and sources from which examination questions are devised for use as a study guide and charge a fee for the actual cost not to exceed one hundred dollars.

Acts 2003, No. 1142, §1, eff. Jan. 1, 2004; Acts 2004, No. 754, §§1, 2, eff. Jan. 1, 2005; Acts 2006, No. 423, §1, eff. June 15, 2006.

§199. Recordation of acts affecting immovable property

A. Notaries public shall record all acts of sale, exchange, donation, and mortgage of immovable property passed before them, together with all resolutions, powers of attorney, and other documents annexed to or made part of the acts, in their proper order, and after first making a careful record of the acts in record books to be kept for that purpose as follows:

(1) If the immovable is located in this state outside of the parish of Orleans, the notary shall record the instrument within fifteen days after they are passed, with the appropriate recorder of the parish or parishes in which the immovable property is situated.

(2)(a) If the immovable is situated within the parish of Orleans, the notary shall file the instrument in the office of the custodian of notarial records for the parish of Orleans and record the instrument with the register of conveyances or recorder of mortgages or both in accordance with the provisions of R.S. 35:323(B).

(b) If the instrument is an act of sale or any other act evidencing a transfer of real property situated in the parish of Orleans, it shall be the duty of the notary to file a copy of the instrument with the board of assessors for the parish of Orleans within fifteen days from the date of sale or transfer. Whenever there is annexed to such act any sketch, blueprint, or survey that forms part of the act, the copy filed with the board of assessors shall have attached a copy of the sketch, blueprint, or survey.

B. The provisions of Subsection A of this Section shall not be applicable to instruments affecting cemetery plots and shall not be so construed as embracing inventories or partitions or any other act required by law to be performed by notaries or parish recorders under any order of court, but the original of all such acts, without being recorded, shall be returned to the court from which the order is issued.

C. All notaries who contravene the provisions of this Section shall be subject to a fine of two hundred dollars for each infraction of the same, to be recovered before any court of competent jurisdiction, one-half for the benefit of the informer, as well as all such damages as the parties may suffer thereby.

D. A notary public shall be relieved of his obligations under Paragraph (A)(1) and Subparagraph (A)(2)(a) of this Section when he has been expressly directed in writing by all parties to the instrument to defer or refrain from such recordation or to deliver the instruments to one of the parties or to another person.

Acts 2006, No. 730, §1.

§281. ¶(A) repealed; ¶(B) redesignated and renumbered as La. R.S. 47:2101.2 Acts 2006 No. 730 §1;§3

§282. §§282 to 286 Repealed by Acts 2006, No. 730, §2.

§392.1. Ex officio notaries

B. The provisions of this Section shall not be applicable to documents notarized by a clerk of court or any of the deputy clerks of court who are employees of the clerk of court when such documents are notarized within the course and scope of their employment with the office of clerk of court. However, nothing in this Section shall prohibit such clerks and deputy clerks from notarizing vehicle titles or acknowledging the signatures on authentic acts even if such authentic acts are not within the course and scope of their employment.

Acts 2003, No. 1142, §1, eff. Jan. 1, 2004; Acts 2004, No. 62, §2; Acts 2005, No. 64, §1, eff. June 16, 2005.

§399. Repealed by Acts 2005, No. 55, §2.

§407. Ex officio notaries for municipal police departments

A. Notwithstanding any provisions of the law relative to qualifications of notaries public, any chief of police of a municipal police department may designate officers in his office and appoint them as ex officio notaries public.

B. Each officer so appointed as ex officio notary may exercise, within his respective jurisdictional limits, the functions of a notary public only to administer oaths and execute affidavits, acknowledgments, traffic tickets, and other documents, all limited to matters within the official functions of the municipal police department for the enforcement of the provisions of any statute which provides for criminal penalties and of the municipal ordinances which the police department is charged with enforcing.

C. All acts performed by each ex officio notary public of a police department authorized by this Section shall be performed without charge or other compensation and without the necessity of giving bond.

D. The chief of police of the police department may suspend or terminate an appointment made in his office pursuant to this Section at any time and separation from the employ of the police department shall automatically terminate the powers of the ex officio notary public.

Acts 1996, 1st Ex. Sess., No. 49, §1, eff. May 7, 1996; Acts 2005, No. 55, §1.

Appendix B

Glossary

Legitimation – Strike out “198” and insert “195”.

Appendix C

About the Examination

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Page 597:

First paragraph, line 3, strike out “parish examining committee” and insert “district court”.

First paragraph, line 6, strike out “examining” and insert “application”.

Under **BECOMING A NOTARY: PRO FORMA**, replace the first two paragraphs with the following:

Having satisfied all of the parish criteria, including paying any court-required fees for application or petitions or both (Note: such fees may not exceed \$35. La. R.S. 35:191(C)(1)(c)) to the court, one submits a check payable to the secretary of state in the amount of \$75. Applicants should contact their parish application committees for deadlines for submitting the application and fees. Parish committees are obligated by statute to submit the names and fees of all qualified applicants to the Notary Division, Office of the Secretary of State, at least forty-five days before the test date. The test is given on the first Saturday of June and December. If the scheduled test date falls on a state holiday, then the next non-holiday Saturday shall be the test date.

The secretary of state shall furnish to each parish application committee the results of the examinations for the examinees from the parish and shall notify each examinee of the results of his examination. The results will be reported approximately 45 days after the examination is given. The parish application committees will report the results to the court, and, if the applicant has otherwise been found competent and possessed of the necessary qualifications, he will be issued a certificate to that effect signed by a district judge of the court (see La. R.S. 35:191(C)(2)(d)).

Page 598:

Under **Part I – Multiple Choice Items**, line 2, strike out “the four parts of”.

In the paragraph immediately preceding the heading “**STANDARDS FOR ACCEPTABLE MASTERY**”, after “these West volumes” insert “ and the current edition of the *Louisiana Notary Public Examination Official Study Guide*.”

Following the paragraph just described, add:

The West volumes must not be marked up in any way, except with a highlighter used to highlight existing text. The volumes must not contain any inserted pages or attachments, but they may be tabbed with tabs that are permanently affixed to the pages and which do not exceed one-half inch square. The tabs must not contain any information except as to indicate the subject matter that is referenced by the placement of the tab. The Study Guide must not contain any inserted pages, attachments, or tabs. But the pages existing in the study guide may be marked up, highlighted, or annotated in any way.

NOTE: YOU WILL NOT BE PERMITTED TO BRING YOUR COPY OF THIS SUPPLEMENT INTO THE EXAM. A PRINTED COPY OF THIS SUPPLEMENT WILL BE PROVIDED TO EXAMINEES AT THE TIME OF THE EXAM. DO NOT ATTACH PAGES OR PORTIONS OF PAGES FROM THIS SUPPLEMENT TO THE STUDY GUIDE YOU WILL BRING TO THE EXAM.

IMPORTANT NOTICE: EXAMINATION-RELATED RULES AND POLICIES APPEARING IN THE STUDY GUIDE OR THIS SUPPLEMENT ARE SUBJECT TO CHANGE AT ANY TIME. EXAM APPLICANTS WILL RECEIVE NOTICE OF ANY AMENDMENTS TO THIS TEXT WITH ADMISSION MATERIALS ISSUED BEFORE THE EXAM.

Page 599:

Under **Performance-based Testing (Parts II & III)**

Strike out the bullet before “The applicant should be able to” and add “:” after “to”.

Strike out the following from the list of notarial instruments:

- Affidavit of Last Holder of Lost Note

Page 601:

First-level bullet list, add bullet item:

- Prepare a personal acknowledgment, witness acknowledgment, or corporate acknowledgment.

Before **SAMPLE QUESTIONS** insert:

Procedure for review

Pursuant to La. R.S. 35:191.1(A)(3), failed examinations shall be reviewed as follows:

Parts I & II: All multiple choice items are subject to post-test statistical analysis which provides the basis for adjustments to the passing criterion score.

Part III: A failing score on this part triggers automatic review by a secondary scorer when the examinee passed Parts I & II. If the reviewing scorer disagrees with the evaluation of the primary scorer, the applicant's written portion is submitted to a second reviewer whose decision shall be final. The second reviewer may consult with the primary scorer, the secondary scorer, or both, during the final review process.

Examinees are not permitted to review their examination.

Page 604:

Under **Part II – Sample Research Items**, replace Sample Items 1 & 2 with the following:

Sample Item 1: Locate the following article and answer the question that follows.

A contract made by a noninterdicted person deprived of reason at the time of contracting may be attacked after his death, on the ground of incapacity, only when the contract is gratuitous, or it evidences lack of understanding, or was made within thirty days of his death, or when application for interdiction was filed before his death.

QUESTION: What is the CHAPTER number under which this article is found?

- A. 1
- B. 2
- C. 3
- D. 4
- E. 5

Sample Item 2: Locate the following statute and answer the question that follows.

A testamentary trust may be created only in one of the forms prescribed by the laws regulating donations mortis causa.

QUESTION: What is the first cross-reference given following the 1964 comments under this section?

- A. C.C. art. 548
- B. R.S. 9:1821
- C. R.S. 9:1733
- D. C.C. art. 1467
- E. C.C. art. 1469

Answers:

Reference:

Sample Item 1: **B** C.C. art. 1926

Sample Item 2: **D** R.S. 9:1751